Haryana Government Gazette

Published by Authority

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No. 12-2026] CHANDIGARH, TUESDAY, MARCH 24, 2026 (CHAITRA 3, 1948 SAKA)

PART–II

Notification of Election Commission of India-Other Notification and Republications from the Gazette of India

भारत निर्वाचन आयोग सचिवालय

निर्वाचन सदन, अशोक रोड, नई दिल्ली–110001

दिनांकः 20 फरवरी, 2024
1 फाल्गुन 1945 (शक)

अधिसूचना

सं0. 82/भा0नि0आ0/हरि0–लो0सभा/2023/(सोनीपत)– लोक प्रतिनिधित्व अधिनियम, 1951 (1951 की 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग वर्ष 2019 की निर्वाचन याचिका सं0 02 में माननीय उच्च न्यायलय पंजाब एवं हरियाणा, चण्डीगढ़ के दिनांक 12 अक्टूबर, 2023 के निर्णय को एत्तद्वारा प्रकाशित करता है–

In the High Court for the States of Punjab and Haryana

At Chandigarh

Election Petition No. 2-2019
Date of Decision:-12.10.2023

Master Ramesh Khatri Lamberdar

...Petitioner

Versus

Ramesh Chander Kaushik

...Respondent

CORAM: HON'BLE MR. JUSTICE RITU BAHRI

Present:- Petitioner in person
Mr. Atul lakhanpal, Sr. Advocate with
Ms. Arvinder Pal Singh Grewal, Advocate
for the respondent.

RITU BAHRI, J.

Petitioner filed petition under Section 77, 77(1), 80 (a) and 100 (b) and D-(iii and iv), 123, 125 (A), 126, 127 (A) (2) of the Representation of People Act, 1951 (hereinafter referred to as ' the Act of 1951') read with Section 49C, 86, 89 of the Conduct of Election Rule, 1961 and also under Article 324 of the Constitution of India, for declaring the election of respondent- Ram Chander Kaushik, as null and void.

Brief facts of the case are petitioner is a resident and voter in 31, Sonepat Constituency at Sr. No. 358/Part No. 54 of Electoral Roll for 06 Sonepat Parliament Constituency. Pursuant to notification dated 16.04.2019, the petitioner contested the above election as an independent candidate, having election symbol as cauliflower. The following is the schedule fixed by the Election Commission:-

Schedule	Date	Day
Date of issue of gazette notification	16.04.2019	Tuesday
Last date of nomination	23.04.2019	Tuesday
Date of scrutiny of nomination	24.04.2019	Wednesday
Last date of withdrawal of candidate	26.04.2019	Friday
Date of Poll	12.05.2019	Sunday
Date of counting	23.05.2019	Thursday
Declare of election	23.05.2019	Thursday

After the process of scrutiny, total 29 candidates were left in fray for the said constituency including the petitioner. The respondent contested the election on the ticket of B.J.P. The poll was held in accordance with the schedule mentioned above. The respondent secured 587664 votes and the petitioner secured 1701 votes. The respondent was thus declared as Returned candidate.

The petitioner is challenging the election on the ground that corrupt practice was adopted by the respondent. Further it has been stated that the respondent was required to file an affidavit giving the entire list of assets, which were owned and possessed by her/his along with the details of the assets of the family member. The respondent needs to maintain a register of day to day accurate election expenditure register under Section 78 of the Act of 1951. On 19.04.2019, respondent had filed his nomination form being Candidate of BJP in 06- Sonipat Parliamentary Constituency. At the time of filing of nomination form, large number of vehicles around 200 and near about 5000 persons were came present in the office of Returning Officer, Sonipat, Mini Secretariat, Sonipat. The above mentioned persons were doing road show while coming from the officers of BJP to the office of Returning Officer. However, the respondent did not show accurate expenditure incurred on 19.04.2019 and 23.04.2019 in the Expenditure Register.

The Respondent also failed to submit the complete detail of expenses regarding Loud Speaker, car, e-rickshaw, Hand puller Rickshaw, Tata Chota Hathi, rally, Nukkar Sabha and public meeting, Sofa Set, chairs, Tents etc. used for public meeting which were organized from 23.04.2019 to 12.05.2019 in 9 MLA constituency i.e. Sonipat Gannaur, Jind Julana etc. The election of the Respondent as returning candidate may be declared void, being a corrupt practice under Section 77 and 123 of the Act of 1951.

As per the Appendix- A issued by the District Election Officer, Sonipat, in which the complete detail has been mentioned regarding the printing stationary of Pamphlet, Sticker, poster etc., but without getting prior approval from the competent authority, they have printed the stationary in much excess approximately Rs. 50 lacs, which is totally in violation of the Rules and the format issued by the District Election office, Sonipat.

The respondent further failed to show the expenses for the refreshment of the guests and other local leader, who are organizing the public meeting in the Assembly constituencies parts of the 06- Sonipat Parliamentary. The respondent has also failed to show the expenses for attending the public meeting by the Ministers and the local leader of the locality 06- Sonipat Parliamentary Constituency they openly used for the Govt. vehicles also misuse the Government accommodation like Guest House and Community centers.

Further he has stated that Hon'ble the Chief Minister of Haryana organized a Vijay Sankalp Rally on 11.04.2019 at village Badwasni in Gohana assembly of 06-Sonipat Parliamentary constituency, in which all the BJP ministers and other ministerial staff were present and a large crowd approximately 70/80 thousand persons were gathered and to this effect light, tent with tax, tablets, chairs, sofa sets, generator set and transportation etc., were used but the respondent has not mentioned in the expenditure register of day to day account. Thus, the election of the respondent be declared null and void being a corrupt practice under Section 77 and 127 of the Act of 1951.

The petitioner submitted a complaint dated 18.05.2019 (P-1) regarding EVM machine and Form 7A Rule 10 of the Act of 1951 also not installed the list of candidates, but till today no action has been taken by the authority. On 06.05.2019 (P-2), the petitioner submitted another complaint at 6:15 AM regarding campaigning the election at Railway Station, Sonepat. The returned candidate with Rajeev Jain Press Secretary of Chief Minister,

Haryana with also 200 paid workers, violation of the Model Code of Conduct and Railway Protection Act. Another complaint dated 19.05.2019 (P-3) was submitted to Sunil Arora Chief Election Commissioner: New Delhi that Ramesh Chander Kaushik BJP Candidate, who is contesting candidate from 06- Sonipat Parliamentary Constituency along with Rajeev Jain and other party workers are campaigning and processing on Sonipat Railway Station without ticket and without any prior permission from R.O. Sonipat or SSP, Sonepat. Another complaint was submitted to Dr. Shaleen, IAS Returning Officer- cum- Deputy Commissioner, Sonepat (P-4).

On 20.05.2019 (P-5) to P-7), the petitioner submitted three complaints regarding campaigning the election at Railway Station, Sonepat. But till date no action against the said person till date. Further complaint was regarding No Demo Ballot Paper list outside of Polling Booth form 7A Rule 10(1) in whole 06- Sonepat Parliamentary Constituency. Another complaint was submitted to SHO/GRP/SNP, Sr. DSC/RPF, P.K. Road, New Delhi on 20.05.2019 (Annexure P-8) regarding campaigning the election at Railway Station, Sonepat. The returned candidate with Rajeev Jain Press Secretary of CM, Haryana with also 200 paid workers, violation of the Model Code of Conduct and Railway Protection Act. The Returning Officer has also issued the specific direction as per direction of the Hon'ble Supreme Court of India passed in SA SLP (Civil) No. 6679/2004 Dated 13.04.2004) that every Registered/ national and State Political party and every contesting candidate proposing to issue advertisement on television channels and/ or on cable network will have to apply to DEO for pre-certification of all political advertisement on electronic media before the publication, inspite of the specific direction issued by the R.O., the respondent has openly used the electronic media which is clear cut violation of the instructions issued by the Hon'ble Supreme Court of India.

The Petitioner has moved an application dated 27.05.2019 (P-9) for issuance of certified copies of the documents to the District election Officer, Sonipat. The petitioner sent application/letter to the Public Information Officer, Under Secretary, Election Commission of India, Nirvachan Sadan, New Delhi dated 03.06.2019 regarding the details asked required information/ documents inspection photo copy softcopy etc. Copies of application for Right to Information Act, 2005 dated 03.06.2019 are attached as Annexures P-10 to P-15 respectively. In response, the Deputy Commissioner- cum- Election Officer, Sonepat stated that only photocopy of election expenditure with vouchers/ bills can be supplied. A copy of reply to the application dated 14.06.2019 is attached as Annexures P-16.

On 19.05.2019, the petitioner submitted a complaint (P-17) that Sh. Ramesh Kaushik BJP contesting candidate from 06-Sonipat, Parliamentary constituency along with Rajeev Jain and other party workers are campaigning and processing on Sonipat Railway Station. They are also without ticket and procession without prior permission from R.O. Sonipat or Senior Superintendent, Sonipat or any other authority. The petitioner sent and application/ letter (Right to Information Act) , 2005 to the Public Information officer, under Secretary, Election Commission of India, Nirvachan Sadan, New Delhi dated 25.06.2019 (P-18) regarding the particulars details information/documents asked required of inspection photo copy softcopy etc. No abstract statement of election expenses of Respondent/ Returned Candidate dated 04.07.2019 from page No.1 to 165 and only photocopy of election expenditure with vouchers/ Bills of Returned candidate issued by petitioner and paid them Rs. 1,079/- only e- challan is attached as Annexure P/19. The Respondent has failed to show the detail of loan, gift and donation received from the concerned persons with his correct address, name and place in correct manner. The expenditure observed also noted down in the expenditure register don't show the name of the said person. The respondent had also opened various offices in 06-Sonipat Parliament Constituency, but the Respondent did not show the expenditures spent in these offices in the Expenditure Register i.e. Gohana AC, Baroda AC, Gannaur AC, Sonipat AC, Kharkhoda AC, Rai AC, Safidon AC and Julana AC and also not shown the vehicles rent driver wages and fuel bills in the expenditure register from 23.04.2019 to 23.05.2019.

On 09.09.2019, this court allowed Cm-11-E-2019 and the applicant/State was allowed to take out the EVMs. VVPATs, which were lying blocked for the purpose of utilization of the same for Haryana Vidhan Sabha Election, 2019.

Thereafter, the petitioner filed reply to the applicant under Order 7 Rule 11 CPC seeking rejection of election petition for non-compliance of mandatory provisions of 83 (1) (a) and (b) of the Act of 1951.

Learned senior counsel for the respondent has argued that the present election petition is liable to be dismissed as the petitioner has challenged the election of the applicant/respondent on the ground of corrupt practice i.e. non disclosure of correct expenses in the expenses submitted by the respondent in the account submitted by him to the Election Officer. However, it is not disputed that right from the day of nomination till the date of polling, the entire election is videography by the Election Officials and the candidate has to submit the details of the expenses incurred by him in a prescribed form on day to day basis and the election officials also informed the candidates that if some expenses have not been incorporate and are given a chance to correct the mistakes. The respondent has furnished the complete details of expenses to the satisfaction of the officials of the election office. The allegations leveled in the petition are vague, as there was no information with the petitioner and he has given figures on his own. The petitioner has failed to mentioned the details of places which are alleged to have been taken rent by the

respondent for opening offices, the number of total workers, has also not been mentioned. The petitioner has failed to give details of loud speakers, cars, e-rickshaws etc. and a sweeping statement has been given that these were used for public meeting from 23.04.2019 to 12.05.2019 in 9 MLA's constituencies. The statement of the petitioner would not amount to compliance of provisions of Section 83 of the Act of 1951. Further the petitioner has not given the details as to how he has arrived at a figure of Rs. 50 lacs for printing of pamphlet, sticker and poster etc.

Learned senior counsel for the petitioner states the application filed by the applicant/ respondent under Order 7 Rule 11 is liable to be allowed, as the petitioner has not complied with mandatory provisions of Section 83 (1) (a) and (b) of Act of 1951 and further submitted that the petitioner has filed similar election petition number of times and all have been dismissed.

1. Election Petition No. 12-2014 titled as Ramesh Khatri Lambardar VS Ms. Kavita Jain, decided on 01.06.2017.

2. Election Petition No. 1-2019 titled as Master Ramesh Khatri VS Dr. Krishan Lal Middhar, decided on 02.09.2022.

3. Election Petition No. 12-2019 titled as Master Ramesh Khatri Lambardar VS Surender Panwar decided on 09.01.2023.

4. Election Petition No. 11-2019 titled as Master Ramesh Khatri Lambardar VS Manohar Lal, decided on 02.09.2022.

Petitioner, who is present in the Court has not disputed the above fact. All election petitions filed by the petitioner had been rejected on the ground that the petitioner had miserably failed to discharge the primary onus to prove the charges to the satisfaction of the Court as allegation of corrupt practice is quasi criminal in nature and material facts and full particulars in respect of even one corrupt practice are not stated in the election petitions.

This issue has already been examined by Hon'ble the Supreme Court in a case of **Azhar Hussain vs. Rajiv Gandhi, 1986 Supp SCC 315,** wherein it has been held that the power lay with the High Court to throw out an election petition at the threshold if a reading thereof did not disclose any cause of action. The relevant portion of the said judgment is as under:-

"12. Learned counsel for the petitioner has next argued that in any event the powers to reject an election petition summarily under the provisions of the Code of Civil Procedure should not be exercised at the threshold. In substance, the argument is that the court must proceed with the trial, record the evidence, and only after the trial of the election petition is concluded that the powers under the Code of Civil Procedure for dealing appropriately with the defective petition which does not disclose cause of action should be exercised. With respect to the learned counsel, it is an argument which it is difficult to comprehend. The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the court and exercise the mind of the respondent. The sword of Damocle need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary Civil litigation the Court readily exercises the power to reject a plaint if it does not disclose any cause of action. Or the power to direct the concerned party to strike out unnecessary, scandalous, frivolous or vexatious parts of the pleadings. Or such pleadings which are likely to cause embarrassment or delay the fair trail of the action or which is otherwise and abuse of the process of law. An order directing a party to strike out a part of the pleading would result in the termination of the case arising in the context of the said pleading. The Courts in exercise of the powers under the Code of Civil Procedure can also treat any point going to the root of the matter such as one pertaining to jurisdiction or maintainablility as a preliminary point and can dismiss a suit without proceeding to record evidence and hear elaborate arguments in the context of such evidence, if the Court is satisfied that the action would terminate in view of the merits of the preliminary point of objection. The contention that even if the election petition is liable to be dismissed ultimately it should be so dismissed only after recording evidence is a thoroughly misconceived and untenable argument. The powers in this behalf are meant to be exercised to serve the purpose for which the same have been conferred on the competent Court so that the litigation comes to an end at the earliest and the concerned litigants are relieved of the psychological burden of the litigation so as to be free to follow their ordinary pursuits and discharge their duties. And so that they can adjust their affairs on the footing that the litigation will not make demands on their time or resources, will not impede their future work, and they are free to undertake and fulfill other commitments. Such being the position in regard to matters pertaining to ordinary Civil litigation, there is greater reason for taking the same view in regard to matter pertaining to elections. So long as the sword of Damocles of the election petition remains hanging an elected member of the Legislature would not feel sufficiently free to devote his whole-hearted attention in his capacity as an elected representative of the concerned constituency. The time and attention demanded by his elected office will have to be diverted to matters pertaining to the contest of the election petition. Instead of being engaged in a campaign to relieve the distress of the people in general and of the residents of his constituency who voted him into office, and instead of resolving their problems, he would be engaged in a campaign to establish that he has in fact been duly elected. Instead of discharging his functions as the elected representative of the people, he will be engaged in a struggle to establish that he is indeed such a

representative, notwithstanding the fact that he has in fact won the verdict and the confidence of the electorate at the polls. He will have not only to win the vote of the people but also to win the vote of the Court in a long drawn out litigation before he can whole-heartedly engaged himself in discharging the trust reposed in him by the electorate. The pendency of the election petition would also act as a hindrance if he be entrusted with some public office in his elected capacity. He may even have occasions to deal with the representatives of foreign powers who may wonder whether he will eventually succeed and hesitate to deal with him. The fact that an election petition calling into question his election is pending may, in a given case, act as psychological fetter and may not permit him to act with full freedom. Even if he is made of stern metal, the constraint introduced by the pendency of an election petition may have some impact on his sub-conscious mind without his ever being or becoming aware of it. Under the circumstances, there is greater reason why in a democratic setup, in regard to a matter pertaining to an elected representative of the people which is likely to inhibit him in the discharge of his duties towards the Nation, the controversy is set at rest at the earliest, if the facts of the case and the law so warrant. Since the Court has the power to act at the threshold the power must be exercised at the threshold itself in case the Court is satisfied that it is a fit case for the exercise of such power and that exercise of such powers is warranted under the relevant provisions of law. To wind up the dialogue, to contend that the powers to dismiss or reject an election petition or pass appropriate orders should not be exercised except at the stage of final judgment after recording the evidence even if the facts of the case warrant exercise of such powers, at the threshold, is to contend that the legislature conferred these powers without point or purpose, and we must close our mental eye to the presence of the powers which should be treated as nonexistent. The Court cannot accede to such a proposition. The submission urged by the learned counsel for the petitioner in this behalf must therefore be firmly repelled

To the same effect is the judgment of the Supreme Court in **Dhartipakar Madan Lal Aggarwal vs. Rajiv Gandhi 1987 Supp SCC 93** wherein it was held that the High Court would have the jurisdiction to reject an election petition under Order VII Rule 11 of the Code if the Court was satisfied that the election petition does not disclose a cause of action. Paragraphs 8 and 11 of the judgment, which are relevant, are reproduced below:-

"8. The first question which falls for our determination is whether the High Court had jurisdiction to strike out pleadings under Order 6, Rule 16, C.P.C. and to reject the election petition under Order 7, Rule 11 of the Code at the preliminary stage even though no written statement had been filed by the respondent. Section 80 provides that no election is to be called in question except by an election petition presented in accordance with the provisions of Part VI of the Act before the High Court. Section 81 provides that an election petition may be presented on one or more of the grounds specified in Section 100 by an elector or by a candidate questioning the election of a returned candidate. Section 83 provides that an election petition shall contain a concise statement of material facts on which the petitioner relies and he shall set forth full particulars of any corrupt practice that he may allege including full statement of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. Section 86 confers power on the High Court to dismiss an election petition which does not comply with the provisions of Sections 81 and 82 or Section 117. Section 87 deals with the procedure to be followed in the trial of the election petition and it lays down that subject to the provisions of the Act and of any les made thereunder, every election petition shall be tried by the High Court as nearly as may be in accordance with the procedure applicable to the trial of suits under the Civil Procedure Code, 1908. Since provisions of Civil Procedure Code apply to the trial of an election petition, Order 6, Rule 16 and Order 6, Rule 17 are applicable to the proceedings relating to the trial of an election petition subject to the provisions of the Act. On a combined reading of Sections 81, 83, 86 and 87 of the Act, it is apparent that those paras of a petition which do not disclose any cause of action, are liable to be struck off under Order, Rule 16, as the Court is empowered at any stage of the proceedings to strike out or delete pleading which is necessary, scandalous, frivolous or vexatious or which may tend to prejudice, embarrass or delay the fair trial of the petition or suit. It is the duty of the court to examine the plaint and it need not wait till the defendant files written statement and points out the defects. If the court on examination of the plaint or the election petition finds that it does not disclose any cause of action it would be justified in striking out the pleadings. Order 6, Rule 16 itself empowers the Court to strike our pleadings at any stage of the proceedings which may even be before the filing of the written statement by the respondent or commencement of the trial. If the Court is satisfied that the election petition does not make out any cause of action and that the trial would prejudice, embarrass and delay the proceedings, the Court need not wait for the filing of the written statement instead it can proceed to hear the preliminary objections and strike out the pleadings. If after striking out the pleadings the court finds that no triable issues remain to be considered, it has power to reject the election petition under Order VI, Rule 11.

11. In **Bhagwati Prasad Dixit 'Ghorawala' vs. Rajiv Gandhi, 1986 (4) SCC 78** this Court again reiterated that in an election pleadings have to be precise, specific and unambiguous and if the election petition does not disclose a cause of action it should be rejected in limine. These authorities have settled the legal position that an election petition is liable to be dismissed in limine at the initial stage if it does not disclose any cause of action. Cause of action in questioning the validity of election must relate to the grounds specified in Section 100 of the Act. If the allegations contained in the petition do not set out grounds of challenge as contemplated by Section 100 of the Act

and if the allegations do not conform to the requirement of Sections 81 and 83 of the Act, the pleadings are liable to be struck off and the election petition is liable to be rejected under Order 7 Rule 11. A pleading if vague and general is embarrassing. If the allegation contained in the election petition even assuming to be true and correct do not make out any case of corrupt practice or any ground under Section 100 of the Act, the pleading would be unnecessary, frivolous and vexatious. It is always open to strike out the same. If after striking out defective pleadings the Court finds that no cause of action remains to be tried it would be duty bound to reject the petition under Order 7, Rule 11, Civil Procedure Code If a preliminary objection is raised before the commencement of the trial, the court is duty bound to consider the same it need not postpone the consideration for subsequent stage of the trial. " In the light of the afore discussion and the law settled by the Supreme Court the decks are now clear to scrutinize the pleadings in the case in hand to find out as to whether the same disclose any cause of action. However, before adverting to the allegations of corrupt practices raised in the petition there is another issue which requires the Court's attention. The main thrust of the allegations by the petitioner are that the respondent has not accurately accounted for the expenses incurred by him during the course of his election campaign and therefore has committed corrupt practices in terms of Section 77 read with Section 123 (b) of the Act.

Keeping in view the fact that the petitioner in the present case as well, has not given any details with respect to misuse of funds by the respondent and keeping in view the judgments mentioned above, this Court is of the view that Election Petition is an abuse of the process of the Court. In such circumstances the respondent's application filed by him under Order VII Rule 11 of the Code is allowed and resultantly, the main election petition is rejected.

Sd/-
12.10.2023 **(Ritu Bahri)**
Judge

Whether Reportable *Yes/No*

आदेश से,

(एस.बी. जोशी)
प्रधान सचिव
भारत निर्वाचन आयोग

30–बेज बिल्डिंग
सैक्टर–17, चण्डीगढ़
17, मार्च, 2026,

ए. श्रीनिवास,
मुख्य निर्वाचन अधिकारी एवं
आयुक्त एवं सचिव, हरियाणा सरकार,
निर्वाचन विभाग।

SECRETARIAT OF THE ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

DATED: 20, FEBRUARY, 2024
01 PHALGUNA, 1945 (SAKA)

NOTIFICATION

No. 82/HAR-HP/2023/(SONIPAT): In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement dated 12th October, 2023 of the Hon'ble High Court of Punjab and Haryana at Chandigarh in Election Petition No. 02 of 2019.

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Further he has stated that Hon'ble the Chief Minister of Haryana organized a Vijay Sankalp Rally on 11.04.2019 at village Badwasni in Gohana assembly of 06-Sonipat Parliamentary constituency, in which all the BJP ministers and other ministerial staff were present and a large crowd approximately 70/80 thousand persons were gathered and to this effect light, tent with tax, tablets, chairs, sofa sets, generator set and transportation etc were used but the respondent has not mentioned in the expenditure register of day to day account. Thus, the election of the respondent be declared null and void being a corrupt practice under Section 77 and 127 of the Act of 1951.

The petitioner submitted a complaint dated 18.05.2019 (P-1) regarding EVM machine and Form 7A Rule 10 of the Act of 1951 also not installed the list of candidates, but till today no action has been taken by the authority. On 06.05.2019 (P-2), the petitioner submitted another complaint at 6:15 AM regarding campaigning the election at Railway Station, Sonepat. The returned candidate with Rajeev Jain Press Secretary of Chief Minister, Haryana with also 200 paid workers, violation of the Model Code of Conduct and Railway Protection Act. Another complaint dated 19.05.2019 (P-3) was submitted to Sunil Arora Chief Election Commissioner: New Delhi that Ramesh Chander Kaushik BJP Candidate, who is contesting candidate from 06- Sonipat Parliamentary Constituency along with Rajeev Jain and other party workers are campaigning and processing on Sonipat Railway Station without ticket and without any prior permission from R.O. Sonipat or SSP, Sonepat. Another complaint was submitted to Dr. Shaleen, IAS Returning Officer- cum- Deputy Commissioner, Sonepat (P-4).

On 20.05.2019 (P-5) to P-7), the petitioner submitted three complaints regarding campaigning the election at Railway Station, Sonepat. But till date no action against the said person till date. Further complaint was regarding No Demo Ballot Paper list outside of Polling Booth form 7A Rule 10(1) in whole 06- Sonepat Parliamentary Constituency. Another complaint was submitted to SHO/GRP/SNP, Sr. DSC/RPF, P.K. Road, New Delhi on 20.05.2019 (Annexure P-8) regarding campaigning the election at Railway Station, Sonepat. The returned candidate with Rajeev Jain Press Secretary of CM, Haryana with also 200 paid workers, violation of the Model Code of Conduct and Railway Protection Act. The Returning Officer has also issued the specific direction as per direction of the Hon'ble Supreme Court of India passed in SA SLP (Civil) No. 6679/2004 Dated 13.04.2004) that every Registered/ national and State Political party and every contesting candidate proposing to issue advertisement on television channels and/ or on cable network will have to apply to DEO for pre-certification of all political advertisement on electronic media before the publication, inspite of the specific direction issued by the R.O., the

respondent has openly used the electronic media which is clear cut violation of the instructions issued by the Hon'ble Supreme Court of India.

The Petitioner has moved an application dated 27.05.2019 (P-9) for issuance of certified copies of the documents to the District election Officer, Sonipat. The petitioner sent application/letter to the Public Information Officer, Under Secretary, Election Commission of India, Nirvachan Sadan, New Delhi dated 03.06.2019 regarding the details asked required information/ documents inspection photo copy softcopy etc. Copies of application for Right to Information Act, 2005 dated 03.06.2019 are attached as Annexures P-10 to P-15 respectively. In response, the Deputy Commissioner- cum- Election Officer, Sonepat stated that only photocopy of election expenditure with vouchers/ bills can be supplied. A copy of reply to the application dated 14.06.2019 is attached as Annexures P-16.

On 19.05.2019, the petitioner submitted a complaint (P-17) that Sh. Ramesh Kaushik BJP contesting candidate from 06-Sonipat, Parliamentary constituency along with Rajeev Jain and other party workers are campaigning and processing on Sonipat Railway Station. They are also without ticket and procession without prior permission from R.O. Sonipat or Senior Superintendent, Sonipat or any other authority. The petitioner sent and application/ letter (Right to Information Act) , 2005 to the Public Information officer, under Secretary, Election Commission of India, Nirvachan Sadan, New Delhi dated 25.06.2019 (P-18) regarding the particulars details information/documents asked required of inspection photo copy softcopy etc. No abstract statement of election expenses of Respondent/ Returned Candidate dated 04.07.2019 from page No. 1 to 165 and only photocopy of election expenditure with vouchers/ Bills of Returned candidate issued by petitioner and paid them Rs. 1,079/- only e- challan is attached as Annexure P/19. The Respondent has failed to show the detail of loan, gift and donation received from the concerned persons with his correct address, name and place in correct manner. The expenditure observed also noted down in the expenditure register don't show the name of the said person. The respondent had also opened various offices in 06-Sonipat Parliament Constituency, but the Respondent did not show the expenditures spent in these offices in the Expenditure Register i.e. Gohana AC, Baroda AC, Gannaur AC, Sonipat AC, Kharkhoda AC, Rai AC, Safidon AC and Julana AC and also not shown the vehicles rent driver wages and fuel bills in the expenditure register from 23.04.2019 to 23.05.2019.

On 09.09.2019, this court allowed Cm-11-E-2019 and the applicant/State was allowed to take out the EVMs. VVPATs, which were lying blocked for the purpose of utilization of the same for Haryana Vidhan Sabha Election, 2019.

Thereafter, the petitioner filed reply to the applicant under Order 7 Rule 11 CPC seeking rejection of election petition for non-compliance of mandatory provisions of 83 (1) (a) and (b) of the Act of 1951.

Learned senior counsel for the respondent has argued that the present election petition is liable to be dismissed as the petitioner has challenged the election of the applicant/respondent on the ground of corrupt practice i.e. non disclosure of correct expenses in the expenses submitted by the respondent in the account submitted by him to the Election Officer. However, it is not disputed that right from the day of nomination till the date of polling, the entire election is videography by the Election Officials and the candidate has to submit the details of the expenses incurred by him in a prescribed form on day to day basis and the election officials also informed the candidates that if some expenses have not been incorporate and are given a chance to correct the mistakes. The respondent has furnished the complete details of expenses to the satisfaction of the officials of the election office. The allegations leveled in the petition are vague, as there was no information with the petitioner and he has given figures on his own. The petitioner has failed to mentioned the details of places which are alleged to have been taken rent by the respondent for opening offices, the number of total workers, has also not been mentioned. The petitioner has failed to give details of loud speakers, cars, e-rickshaws etc. and a sweeping statement has been given that these were used for public meeting from 23.04.2019 to 12.05.2019 in 9 MLA's constituencies. The statement of the petitioner would not amount to compliance of provisions of Section 83 of the Act of 1951. Further the petitioner has not given the details as to how he has arrived at a figure of Rs. 50 lacs for printing of pamphlet, sticker and poster etc.

Learned senior counsel for the petitioner states the application filed by the applicant/ respondent under Order 7 Rule 11 is liable to be allowed, as the petitioner has not complied with mandatory provisions of Section 83 (1) (a) and (b) of Act of 1951 and further submitted that the petitioner has filed similar election petition number of times and all have been dismissed.

1. Election Petition No. 12-2014 titled as Ramesh Khatri Lambardar VS Ms. Kavita Jain, decided on 01.06.2017.

2. Election Petition No. 1-2019 titled as Master Ramesh Khatri VS Dr. Krishan Lal Middhar, decided on 02.09.2022.

3. Election Petition No. 12-2019 titled as Master Ramesh Khatri Lambardar VS Surender Panwar decided on 09.01.2023.

4. Election Petition No. 11-2019 titled as Master Ramesh Khatri Lambardar VS Manohar Lal, decided on 02.09.2022.

Petitioner, who is present in the Court has not disputed the above fact. All election petitions filed by the petitioner had been rejected on the ground that the petitioner had miserably failed to discharge the primary onus to prove the charges to the satisfaction of the Court as allegation of corrupt practice is quasi criminal in nature and material facts and full particulars in respect of even one corrupt practice are not stated in the election petitions.

This issue has already been examined by Hon'ble the Supreme Court in a case of **Azhar Hussain vs. Rajiv Gandhi, 1986 Supp SCC 315,** wherein it has been held that the power lay with the High Court to throw out an election petition at the threshold if a reading thereof did not disclose any cause of action. The relevant portion of the said judgment is as under:-

"12. Learned counsel for the petitioner has next argued that in any event the powers to reject an election petition summarily under the provisions of the Code of Civil Procedure should not be exercised at the threshold. In substance, the argument is that the court must proceed with the trial, record the evidence, and only after the trial of the election petition is concluded that the powers under the Code of Civil Procedure for dealing appropriately with the defective petition which does not disclose cause of action should be exercised. With respect to the learned counsel, it is an argument which it is difficult to comprehend. The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the court and exercise the mind of the respondent. The sword of Damocle need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary Civil litigation the Court readily exercises the power to reject a plaint if it does not disclose any cause of action. Or the power to direct the concerned party to strike out unnecessary, scandalous, frivolous or vexatious parts of the pleadings. Or such pleadings which are likely to cause embarrassment or delay the fair trail of the action or which is otherwise and abuse of the process of law. An order directing a party to strike out a part of the pleading would result in the termination of the case arising in the context of the said pleading. The Courts in exercise of the powers under the Code of Civil Procedure can also treat any point going to the root of the matter such as one pertaining to jurisdiction or maintainablility as a preliminary point and can dismiss a suit without proceeding to record evidence and hear elaborate arguments in the context of such evidence, if the Court is satisfied that the action would terminate in view of the merits of the preliminary point of objection. The contention that even if the election petition is liable to be dismissed ultimately it should be so dismissed only after recording evidence is a thoroughly misconceived and untenable argument. The powers in this behalf are meant to be exercised to serve the purpose for which the same have been conferred on the competent Court so that the litigation comes to an end at the earliest and the concerned litigants are relieved of the psychological burden of the litigation so as to be free to follow their ordinary pursuits and discharge their duties. And so that they can adjust their affairs on the footing that the litigation will not make demands on their time or resources, will not impede their future work, and they are free to undertake and fulfill other commitments. Such being the position in regard to matters pertaining to ordinary Civil litigation, there is greater reason for taking the same view in regard to matter pertaining to elections. So long as the sword of Damocles of the election petition remains hanging an elected member of the Legislature would not feel sufficiently free to devote his whole-hearted attention in his capacity as an elected representative of the concerned constituency. The time and attention demanded by his elected office will have to be diverted to matters pertaining to the contest of the election petition. Instead of being engaged in a campaign to relieve the distress of the people in general and of the residents of his constituency who voted him into office, and instead of resolving their problems, he would be engaged in a campaign to establish that he has in fact been duly elected. Instead of discharging his functions as the elected representative of the people, he will be engaged in a struggle to establish that he is indeed such a representative, notwithstanding the fact that he has in fact won the verdict and the confidence of the electorate at the polls. He will have not only to win the vote of the people but also to win the vote of the Court in a long drawn out litigation before he can whole-heartedly engaged himself in discharging the trust reposed in him by the electorate. The pendency of the election petition would also act as a hindrance if he be entrusted with some public office in his elected capacity. He may even have occasions to deal with the representatives of foreign powers who may wonder whether he will eventually succeed and hesitate to deal with him. The fact that an election petition calling into question his election is pending may, in a given case, act as psychological fetter and may not permit him to act with full freedom. Even if he is made of stern metal, the constraint introduced by the pendency of an election petition may have some impact on his sub-conscious mind without his ever being or becoming aware of it. Under the circumstances, there is greater reason why in a democratic setup, in regard to a matter pertaining to an elected representative of the people which is likely to inhibit him in the discharge of his duties towards the Nation, the

controversy is set at rest at the earliest, if the facts of the case and the law so warrant. Since the Court has the power to act at the threshold the power must be exercised at the threshold itself in case the Court is satisfied that it is a fit case for the exercise of such power and that exercise of such powers is warranted under the relevant provisions of law. To wind up the dialogue, to contend that the powers to dismiss or reject an election petition or pass appropriate orders should not be exercised except at the stage of final judgment after recording the evidence even if the facts of the case warrant exercise of such powers, at the threshold, is to contend that the legislature conferred these powers without point or purpose, and we must close our mental eye to the presence of the powers which should be treated as nonexistent. The Court cannot accede to such a proposition. The submission urged by the learned counsel for the petitioner in this behalf must therefore be firmly repelled

To the same effect is the judgment of the Supreme Court in **Dhartipakar Madan Lal Aggarwal vs. Rajiv Gandhi 1987 Supp SCC 93** wherein it was held that the High Court would have the jurisdiction to reject an election petition under Order VII Rule 11 of the Code if the Court was satisfied that the election petition does not disclose a cause of action. Paragraphs 8 and 11 of the judgment, which are relevant, are reproduced below:-

"8. The first question which falls for our determination is whether the High Court had jurisdiction to strike out pleadings under Order 6, Rule 16, C.P.C. and to reject the election petition under Order 7, Rule 11 of the Code at the preliminary stage even though no written statement had been filed by the respondent. Section 80 provides that no election is to be called in question except by an election petition presented in accordance with the provisions of Part VI of the Act before the High Court. Section 81 provides that an election petition may be presented on one or more of the grounds specified in Section 100 by an elector or by a candidate questioning the election of a returned candidate. Section 83 provides that an election petition shall contain a concise statement of material facts on which the petitioner relies and he shall set forth full particulars of any corrupt practice that he may allege including full statement of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. Section 86 confers power on the High Court to dismiss an election petition which does not comply with the provisions of Sections 81 and 82 or Section 117. Section 87 deals with the procedure to be followed in the trial of the election petition and it lays down that subject to the provisions of the Act and of any les made thereunder, every election petition shall be tried by the High Court as nearly as may be in accordance with the procedure applicable to the trial of suits under the Civil Procedure Code, 1908. Since provisions of Civil Procedure Code apply to the trial of an election petition, Order 6, Rule 16 and Order 6, Rule 17 are applicable to the proceedings relating to the trial of an election petition subject to the provisions of the Act. On a combined reading of Sections 81, 83, 86 and 87 of the Act, it is apparent that those paras of a petition which do not disclose any cause of action, are liable to be struck off under Order, Rule 16, as the Court is empowered at any stage of the proceedings to strike out or delete pleading which is necessary, scandalous, frivolous or vexatious or which may tend to prejudice, embarrass or delay the fair trial of the petition or suit. It is the duty of the court to examine the plaint and it need not wait till the defendant files written statement and points out the defects. If the court on examination of the plaint or the election petition finds that it does not disclose any cause of action it would be justified in striking out the pleadings. Order 6, Rule 16 itself empowers the Court to strike our pleadings at any stage of the proceedings which may even be before the filing of the written statement by the respondent or commencement of the trial. If the Court is satisfied that the election petition does not make out any cause of action and that the trial would prejudice, embarrass and delay the proceedings, the Court need not wait for the filing of the written statement instead it can proceed to hear the preliminary objections and strike out the pleadings. If after striking out the pleadings the court finds that no triable issues remain to be considered, it has power to reject the election petition under Order VI, Rule 11.

11. In **Bhagwati Prasad Dixit 'Ghorawala' vs. Rajiv Gandhi, 1986 (4) SCC 78** this Court again reiterated that in an election pleadings have to be precise, specific and unambiguous and if the election petition does not disclose a cause of action it should be rejected in limine. These authorities have settled the legal position that an election petition is liable to be dismissed in limine at the initial stage if it does not disclose any cause of action. Cause of action in questioning the validity of election must relate to the grounds specified in Section 100 of the Act. If the allegations contained in the petition do not set out grounds of challenge as contemplated by Section 100 of the Act and if the allegations do not conform to the requirement of Sections 81 and 83 of the Act, the pleadings are liable to be struck off and the election petition is liable to be rejected under Order 7 Rule 11. A pleading if vague and general is embarrassing. If the allegation contained in the election petition even assuming to be true and correct do not make out any case of corrupt practice or any ground under Section 100 of the Act, the pleading would be unnecessary, frivolous and vexatious. It is always open to strike out the same. If after striking out defective pleadings the Court finds that no cause of action remains to be tried it would be duty bound to reject the petition under Order 7, Rule 11, Civil Procedure Code If a preliminary objection is raised before the commencement of the trial, the court is duty bound to consider the same it need not postpone the consideration for subsequent stage of the trial. " In the light of the afore discussion and the law settled by the Supreme Court the decks are now clear to scrutinize the pleadings in

the case in hand to find out as to whether the same disclose any cause of action. However, before adverting to the allegations of corrupt practices raised in the petition there is another issue which requires the Court's attention. The main thrust of the allegations by the petitioner are that the respondent has not accurately accounted for the expenses incurred by him during the course of his election campaign and therefore has committed corrupt practices in terms of Section 77 read with Section 123 (b) of the Act.

Keeping in view the fact that the petitioner in the present case as well, has not given any details with respect to misuse of funds by the respondent and keeping in view the judgments mentioned above, this Court is of the view that Election Petition is an abuse of the process of the Court. In such circumstances the respondent's application filed by him under Order VII Rule 11 of the Code is allowed and resultantly, the main election petition is rejected.

Sd/-
12.10.2023 **(Ritu Bahri)**
Judge

Whether speaking/reasoned *Yes/No*
Whether Reportable *Yes/No*

By order,

(S.B. JOSHI)
PRINCIPAL SECRETARY
ELECTION COMMISSION OF INDIA

30-Bays Building
Sector-17, Chandigarh
17, March, 2026

A. Sreenivas,
Chief Electoral Officer-and
Commissioner & Secretary to Govt. Haryana,
Elections Department.

12446—C.S.—H.G.P., Pkl.